

### REMARKS

This is a full and timely response to the non-final Official Action mailed **January 15, 2009** (the “Office Action” or “Action”). Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

#### Claim Status:

The present application is a U.S. nationalization of an earlier PCT application. At the time the present application was filed, claims 1-30 were canceled. Specifically, claims 1-30 were canceled in a preliminary amendment filed March 8, 2006 as part of the original filing of this application. This preliminary amendment also added claims 31-49 to the application. A copy of the preliminary amendment is provided in the Appendix of this paper and is also of record in PAIR IFW for this application. Indeed, the attached Appendix provides a copy of this Preliminary Amendment as retrieved from PAIR, and evidences the document as received by the PTO, e.g. “IAP6 Rec’d PCT/PTO 08 Mar 2006” is clearly evident on P. 1.

It appears that the recent Office Action has overlooked the preliminary amendment of March 8, 2006. The recent Office Action provides an examination of canceled claims 1-30, but fails to examine or address pending claims 31-49.

No amendments to the claims are proposed by the present paper. Thus, claims 31-49 are currently pending for further action.

#### Rejections under 35 U.S.C. §§ 101, 102(b), and 103(a):

In the present Office Action, cancelled claims 1-30 are rejected under 35 U.S.C. §§ 101, 102(b) and 103(a). These rejections of claims 1-30 are moot due to the prior cancellation

of claims 1-30 in the preliminary amendment of March 8, 2006. Examination of pending claims 31-49 is respectfully requested.

Conclusion:

In view of the foregoing arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicant reserves the right to set forth further arguments in future papers supporting the patentability of any of the claims, including the separate patentability of the dependent claims not explicitly addressed herein. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed.

The absence of a reply to a specific rejection, issue, or comment in the Office Action does not signify agreement with or concession of that rejection, issue, or comment. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Further, for any instances in which the Examiner wishes to take Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

If the Examiner has any comments or suggestions which could place this application in better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

DATE: April 15, 2009

/Steven L. Nichols/

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APPENDIX

Please find below a copy of the preliminary amendment filed concurrently with the originally filed application on March 8, 2006:

**10/571060**

Atty. Dkt. No. 200207058-4

**IAP6 Rec'd PCT/PTO 08 MAR 2006*****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Patrick BROUHON  
Title: METHODS AND APPARATUS  
FOR GENERATING IMAGES  
Appl. No.: Unassigned  
Filing Date: 03/08/2006  
Examiner: Unassigned  
Art Unit: Unassigned

PRELIMINARY AMENDMENT UNDER 37 CFR 1.115

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Prior to examination of the present Application, Applicant respectfully requests that the application be amended as follows:

**Amendments to the Claims** are reflected in the listing of claims which begins on page 2 of this document.

**Remarks/Arguments** begin on page 5 of this document.

Please amend the application as follows:

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**Amendments to the Claims:**

This listing of claims will replace all prior versions, and listings, of claims in the application:

**Listing of Claims:**

Claims 1-30. Canceled.

31. (New) A method of generating an image comprising a position identifying pattern and content the method comprising the steps of:

defining criteria relating to a region where the content and the pattern are superimposed, the criteria determining whether the pattern will be distinguishable over the content when applied to a product;

identifying such a region in the image; and

selecting a characteristic of the pattern or the content in the region on the basis of the criteria, such that the image in the region meets the criteria.

32. (New) A method according to claim 31 wherein the characteristic is a characteristic of the pattern.

33. (New) A method according to claim 32 wherein the characteristic of the pattern within the region is selected depending on the density of the content within the region.

34. (New) A method according to claim 33 wherein the pattern is made up of a plurality of pattern elements and the characteristic is the density of each of the pattern elements.

35. (New) A method according to claim 34 wherein the density of each of the pattern elements is selected a high density and a low density.

36. (New) A method according to claim 35 wherein the high density corresponds to the pattern elements being substantially covered with marking material, when the image is applied to a product.

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37. (New) A method according to claim 35 wherein the low density corresponds to the pattern elements being left substantially free of marking material, when the image is applied to a product.

38. (New) A method according to claim 37 including defining a size of each of the pattern elements, the size depending on whether the pattern element is high density or low density.

39. (New) A method according to claim 34 further comprising classifying the content within the region as high density or low density, and selecting the low pattern element density if the content is high density, and the high pattern element density if the content is low density.

40. (New) A method according to claim 39 wherein the content within said region is classified as high, low or intermediate density, and the method further comprises modifying the content in the intermediate density content regions to make it higher or lower density thereby to maintain contrast between the content and the pattern in the intermediate density regions.

41. (New) A method according to claim 31 wherein the characteristic is a characteristic of the content.

42. (New) A method according to claim 41 wherein, the characteristic is the density of the content, which is limited to at least one predetermined range to maintain contrast between the content and the pattern within the region.

43. (New) A method according to claim 31 wherein the image is applied to a product using a marking material, the marking material being the same for the pattern and the content.

44. (New) A method according to claim 41 wherein the characteristic of the content is the nature of the marking material to be used when applying the content to a product.

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45. (New) A method according to claim 44 wherein the marking material is selected to be different from that selected for applying the pattern to the product.
46. (New) A method according to claim 31 further comprising applying the image to a product.
47. (New) A method according to claim 46 wherein the pattern and the content are applied to the product in a one-pass process.
48. (New) A method according to claim 46 wherein the pattern and the content are applied to the product by a printer.
49. (New) A data carrier carrying data arranged to control a computer system to perform the method according to claim 31.

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## REMARKS

Applicant respectfully requests that the foregoing amendments be made prior to examination of the present application.

Claims 1-30 are requested to be cancelled.

Claims 31-49 are being added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 31-49 are now pending in this application.

Applicant believes that the present application is now in condition for allowance. Favorable consideration of the application as amended is respectfully requested.

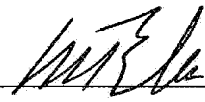
The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date March 8, 2006

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By

  
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